

**ASSEMBLY BILL**

**No. 315**

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**Introduced by Assembly Member Wood**

February 6, 2017

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An act to amend Sections 4100, 4107.5, 4201, and 4400 of, and to add Sections 4037.5 and 4053.2 to, and to add Article 25 (commencing with Section 4427) to Chapter 9 of Division 2 of, the Business and Professions Code, relating to pharmacy benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as introduced, Wood. Pharmacy benefits management.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy. A violation of the Pharmacy Law is a crime. Existing law also imposes requirements on audits of pharmacy services provided to beneficiaries of a health benefit plan, as specified.

This bill would require pharmacy benefit managers, as defined, and designated pharmacy benefits manager representatives to be licensed by the California State Board of Pharmacy, as prescribed, and would establish qualifications for the designated pharmacy benefits manager representative license. The bill would prescribe the duties of the designated pharmacy benefits manager representative, as specified. The bill would also require pharmacy benefit managers to make specified disclosures to the board on an annual basis, as specified. The bill would make conforming changes to related provisions. Because a violation of these provisions under the Pharmacy Law would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) Pharmacy benefit managers (PBMs) were  
2 formed over 40 years ago to assist insurers and employers in  
3 managing prescription drug benefits for employees and insureds.  
4 PBMs are used by many health plans, self-insured employers, and  
5 government payers to deliver medications to their beneficiaries.  
6 The three largest PBMs provide prescription drug coverage to  
7 more than 200 million Americans or roughly 78 percent of  
8 Americans whose pharmacy benefits are managed by a PBM.

9 (b) According to a Kaiser Family Foundation publication, PBMs  
10 have evolved from basic claims administrators to more complex  
11 organizations offering a wide range of prescription drug managed  
12 tools, such as drug utilization review, disease management, and  
13 consultative services. PBMs can also assist clients with establishing  
14 their benefit structure, including developing and maintaining a  
15 prescription drug formulary, developing a network of pharmacy  
16 providers, and providing mail order fulfillment services. PBMs  
17 may achieve savings for their customers by negotiating discounts  
18 with drug manufacturers and through cost containment programs,  
19 including use of formularies and cost sharing. PBMs were effective  
20 in negotiating prices that initially reduced prescription drug prices,  
21 and held those costs in check.

22 (c) In recent years, there have been concerns raised regarding  
23 the value of PBMs. Consumer advocates argue manufacturer rebate  
24 money causes PBMs to favor more costly brand-name drugs over  
25 generic or lower-cost, therapeutically equivalent brand-name drugs  
26 and that the business practices of PBMs generally lack  
27 transparency.

28 (d) Additionally, mergers between PBMs and pharmaceutical  
29 manufacturers and large pharmacy chains have also occurred.  
30 Concerns of potential conflict of interest, inhibiting competition

1 in the dispensing of prescription drugs, actual increased  
2 out-of-pocket costs for consumers, and denying consumer choice,  
3 and whether employers and insurers have received a reasonable  
4 and fair share of the discounts and other price concessions PMBs  
5 negotiated on their behalf, are some of the biggest concerns.

6 (e) States like Arkansas, Georgia, Iowa, Kansas, Mississippi,  
7 North Dakota, South Dakota, Vermont, and Washington have  
8 enacted laws to regulate the practice of PBMs.

9 (f) Currently, PBMs in California are unregulated. This lack of  
10 oversight coupled with a lack of transparency regarding business  
11 operations has generated numerous questions. In order to address  
12 questions that have been raised about whether the industry fully  
13 discloses how much it is actually saving insurer and employer  
14 clients and what portion of those savings are actually passed along  
15 to consumers, the Legislature needs to address this issue through  
16 the regulation of PBMs.

17 SEC. 2. Section 4037.5 is added to the Business and Professions  
18 Code, to read:

19 4037.5. (a) “Pharmacy benefit manager” means a person,  
20 business, or other entity that, pursuant to a contract or under an  
21 employment relationship with a carrier, health benefit plan sponsor,  
22 or other third-party payer, either directly or through an  
23 intermediary, manages the prescription drug coverage provided  
24 by the carrier, plan sponsor, or other third-party payer, including,  
25 but not limited to, the processing and payment of claims for  
26 prescription drugs, the performance of drug utilization review, the  
27 processing of drug prior authorization requests, the adjudication  
28 of appeals or grievances related to prescription drug coverage,  
29 contracting with network pharmacies, and controlling the cost of  
30 covered prescription drugs.

31 (b) “Pharmacy benefit manager” shall not include a nonprofit,  
32 tax-exempt California licensed health plan that contracts with no  
33 more than two medical groups in the state, or to its affiliated  
34 entities, or any information exchanged pursuant to their contracts  
35 with organizations to administer their pharmacy benefits and  
36 services.

37 SEC. 3. Section 4053.2 is added to the Business and Professions  
38 Code, to read:

39 4053.2. (a) Notwithstanding Section 4051, the board shall  
40 issue a license to a pharmacist or a qualified individual as a

1 designated pharmacy benefits manager representative to provide  
2 sufficient and qualified supervision of a pharmacy benefit manager.  
3 Each pharmacy benefit manager shall designate a pharmacy  
4 benefits manager representative to protect the public health and  
5 safety in the handling, storage, warehousing, distribution, and  
6 shipment of dangerous drugs and dangerous devices for each of  
7 the pharmacy benefit manager’s premises.

8 (b) An individual who is at least 18 years of age may apply for  
9 a designated pharmacy benefits manager representative license.  
10 In order to obtain and maintain that license, the individual shall  
11 meet all of the following requirements:

12 (1) He or she shall be a high school graduate or possess a  
13 General Education Development certificate equivalent.

14 (2) He or she shall meet one of the following requirements:

15 (A) Have a minimum of one year of paid work experience in  
16 the past three years with a pharmacy benefit manager.

17 (B) Have a minimum of one year of paid work experience in  
18 the past three years in a licensed pharmacy, or with a drug  
19 wholesaler, drug distributor, or drug manufacturer, performing  
20 duties related to the distribution or dispensing of dangerous drugs  
21 or dangerous devices.

22 (3) (A) He or she shall complete a training program approved  
23 by the board that, at a minimum, addresses each of the following  
24 subjects:

25 (i) Knowledge and understanding of California law and federal  
26 law relating to the distribution of dangerous drugs and dangerous  
27 devices.

28 (ii) Knowledge and understanding of California law and federal  
29 law relating to the distribution of controlled substances.

30 (iii) Knowledge and understanding of quality control systems.

31 (iv) Knowledge and understanding of the United States  
32 Pharmacopoeia or federal Food and Drug Administration standards  
33 relating to the safe storage, handling, and transport of dangerous  
34 drugs and dangerous devices.

35 (B) The board may, by regulation, require the training program  
36 required under this paragraph to include additional material.

37 (C) The board shall not issue a license as a designated pharmacy  
38 benefits manager representative until the applicant provides proof  
39 of completion of the training required by this paragraph to the  
40 board.

1 (c) A pharmacy benefit manager shall not operate without at  
2 least one designated pharmacy benefits manager representative  
3 present at each of its licensed places of business.

4 (d) A pharmacist licensed in California and fulfilling the duties  
5 of a designated pharmacy benefits manager representative as  
6 specified in subdivision (a) shall not be required to obtain a  
7 separate license as a designated pharmacy benefits manager  
8 representative.

9 SEC. 4. Section 4100 of the Business and Professions Code is  
10 amended to read:

11 4100. ~~(a)~~ Within 30 days after changing his or her address of  
12 record with the board or after changing his or her name according  
13 to law, a pharmacist, intern pharmacist, technician, ~~or~~ designated  
14 ~~representative~~ representative, or designated pharmacy benefits  
15 manager representative shall notify the executive officer of the  
16 board of the change of address or change of name.

17 ~~(b) This section shall become operative on January 1, 2006.~~

18 SEC. 5. Section 4107.5 of the Business and Professions Code  
19 is amended to read:

20 4107.5. If a manufacturer, wholesaler, third-party logistics  
21 provider, *pharmacy benefit manager*, or pharmacy has reasonable  
22 cause to believe that a dangerous drug or dangerous device in, or  
23 having been in, its possession is counterfeit or the subject of a  
24 fraudulent transaction, the manufacturer, wholesaler, third-party  
25 logistics provider, *pharmacy benefit manager*, or pharmacy shall  
26 notify the board within 72 hours of obtaining that knowledge. This  
27 section shall apply to any dangerous drug or dangerous device that  
28 has been sold or distributed in or through this state.

29 SEC. 6. Section 4201 of the Business and Professions Code is  
30 amended to read:

31 4201. (a) Each application to conduct a pharmacy, *pharmacy*  
32 *benefit manager*, wholesaler, third-party logistics provider,  
33 veterinary food-animal drug retailer, or outsourcing facility shall  
34 be made on a form furnished by the board and shall state the name,  
35 address, usual occupation, and professional qualifications, if any,  
36 of the applicant. If the applicant is other than a natural person, the  
37 application shall state the information as to each person beneficially  
38 interested therein or any person with management or control over  
39 the license.

- 1 (b) As used in this section, and subject to subdivision (c), the  
2 term “person beneficially interested” means and includes:
- 3 (1) If the applicant is a partnership or other unincorporated  
4 association, each partner or member.
- 5 (2) If the applicant is a corporation, each of its officers, directors,  
6 and stockholders, provided that a natural person shall not be  
7 deemed to be beneficially interested in a nonprofit corporation.
- 8 (3) If the applicant is a limited liability company, each officer,  
9 manager, or member.
- 10 (c) If the applicant is a partnership or other unincorporated  
11 association, a limited liability company, or a corporation, and the  
12 number of partners, members, or stockholders, as the case may  
13 be, exceeds five, the application shall so state, and shall further  
14 state the information required by subdivision (a) as to each of the  
15 five partners, members, or stockholders who own the five largest  
16 interests in the applicant entity. Upon request by the executive  
17 officer, the applicant shall furnish the board with the information  
18 required by subdivision (a) as to partners, members, or stockholders  
19 not named in the application, or shall refer the board to an  
20 appropriate source of that information.
- 21 (d) The application shall contain a statement to the effect that  
22 the applicant has not been convicted of a felony and has not  
23 violated any of the provisions of this chapter. If the applicant  
24 cannot make this statement, the application shall contain a  
25 statement of the violation, if any, or reasons which will prevent  
26 the applicant from being able to comply with the requirements  
27 with respect to the statement.
- 28 (e) Upon the approval of the application by the board and  
29 payment of the fee required by this chapter for each pharmacy,  
30 *pharmacy benefit manager*, wholesaler, third-party logistics  
31 provider, or veterinary food-animal drug retailer, the executive  
32 officer of the board shall issue a license to conduct a pharmacy,  
33 wholesaler, third-party logistics provider, veterinary food-animal  
34 drug retailer, or outsourcing facility if all of the provisions of this  
35 chapter have been complied with.
- 36 (f) Notwithstanding any other law, the pharmacy license shall  
37 authorize the holder to conduct a pharmacy. The license shall be  
38 renewed annually and shall not be transferable.
- 39 (g) *Notwithstanding any other law, the pharmacy benefit*  
40 *manager license shall authorize the holder to conduct business as*

1 *a pharmacy benefit manager as defined in Section 4037.5. The*  
2 *license shall be renewed annually and shall not be transferable.*

3 ~~(g)~~

4 (h) Notwithstanding any other law, the wholesaler license shall  
5 authorize the holder to wholesale dangerous drugs and dangerous  
6 devices. The license shall be renewed annually and shall not be  
7 transferable.

8 ~~(h)~~

9 (i) Notwithstanding any other law, the third-party logistics  
10 provider license shall authorize the holder to provide or coordinate  
11 warehousing, distribution, or other similar services of dangerous  
12 drugs and dangerous devices. The license shall be renewed annually  
13 and shall not be transferable.

14 ~~(i)~~

15 (j) Notwithstanding any other law, the veterinary food-animal  
16 drug retailer license shall authorize the holder to conduct a  
17 veterinary food-animal drug retailer and to sell and dispense  
18 veterinary food-animal drugs as defined in Section 4042.

19 ~~(j)~~

20 (k) For licenses referred to in subdivisions (f), (g), (h), ~~and~~ (i),  
21 *and* (j), any change in the proposed beneficial ownership interest  
22 shall be reported to the board within 30 days thereafter upon a  
23 form to be furnished by the board.

24 SEC. 7. Section 4400 of the Business and Professions Code,  
25 as added by Section 26 of Chapter 799 of the Statutes of 2016, is  
26 amended to read:

27 4400. The amount of fees and penalties prescribed by this  
28 chapter, except as otherwise provided, is that fixed by the board  
29 according to the following schedule:

30 (a) The fee for a nongovernmental pharmacy license shall be  
31 five hundred twenty dollars (\$520) and may be increased to five  
32 hundred seventy dollars (\$570). The fee for the issuance of a  
33 temporary nongovernmental pharmacy permit shall be two hundred  
34 fifty dollars (\$250) and may be increased to three hundred  
35 twenty-five dollars (\$325).

36 (b) The fee for a nongovernmental pharmacy license annual  
37 renewal shall be six hundred sixty-five dollars (\$665) and may be  
38 increased to nine hundred thirty dollars (\$930).

1 (c) The fee for the pharmacist application and examination shall  
2 be two hundred sixty dollars (\$260) and may be increased to two  
3 hundred eighty-five dollars (\$285).

4 (d) The fee for regrading an examination shall be ninety dollars  
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
6 If an error in grading is found and the applicant passes the  
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license shall be one hundred  
9 ninety-five dollars (\$195) and may be increased to two hundred  
10 fifteen dollars (\$215). The fee for a pharmacist biennial renewal  
11 shall be three hundred sixty dollars (\$360) and may be increased  
12 to five hundred five dollars (\$505).

13 (f) The fee for a nongovernmental wholesaler or third-party  
14 logistics provider license and annual renewal shall be seven  
15 hundred eighty dollars (\$780) and may be increased to eight  
16 hundred twenty dollars (\$820). The application fee for any  
17 additional location after licensure of the first 20 locations shall be  
18 three hundred dollars (\$300) and may be decreased to no less than  
19 two hundred twenty-five dollars (\$225). A temporary license fee  
20 shall be seven hundred fifteen dollars (\$715) and may be decreased  
21 to no less than five hundred fifty dollars (\$550).

22 (g) The fee for a hypodermic license shall be one hundred  
23 seventy dollars (\$170) and may be increased to two hundred forty  
24 dollars (\$240). The fee for a hypodermic license renewal shall be  
25 two hundred dollars (\$200) and may be increased to two hundred  
26 eighty dollars (\$280).

27 (h) (1) The fee for application, investigation, and issuance of  
28 a license as a designated representative pursuant to Section 4053,  
29 or as a designated representative-3PL pursuant to Section 4053.1,  
30 shall be one hundred fifty dollars (\$150) and may be increased to  
31 two hundred ten dollars (\$210).

32 (2) The fee for the annual renewal of a license as a designated  
33 representative or designated representative-3PL shall be two  
34 hundred fifteen dollars (\$215) and may be increased to three  
35 hundred dollars (\$300).

36 (i) (1) The fee for the application, investigation, and issuance  
37 of a license as a designated representative for a veterinary  
38 food-animal drug retailer pursuant to Section 4053 shall be one  
39 hundred fifty dollars (\$150) and may be increased to two hundred  
40 ten dollars (\$210).

1 (2) The fee for the annual renewal of a license as a designated  
2 representative for a veterinary food-animal drug retailer shall be  
3 two hundred fifteen dollars (\$215) and may be increased to three  
4 hundred dollars (\$300).

5 (j) (1) The application fee for a nonresident wholesaler or  
6 third-party logistics provider license issued pursuant to Section  
7 4161 shall be seven hundred eighty dollars (\$780) and may be  
8 increased to eight hundred twenty dollars (\$820).

9 (2) For nonresident wholesalers or third-party logistics providers  
10 that have 21 or more facilities operating nationwide the application  
11 fees for the first 20 locations shall be seven hundred eighty dollars  
12 (\$780) and may be increased to eight hundred twenty dollars  
13 (\$820). The application fee for any additional location after  
14 licensure of the first 20 locations shall be three hundred dollars  
15 (\$300) and may be decreased to no less than two hundred  
16 twenty-five dollars (\$225). A temporary license fee shall be seven  
17 hundred fifteen dollars (\$715) and may be decreased to no less  
18 than five hundred fifty dollars (\$550).

19 (3) The annual renewal fee for a nonresident wholesaler license  
20 or third-party logistics provider license issued pursuant to Section  
21 4161 shall be seven hundred eighty dollars (\$780) and may be  
22 increased to eight hundred twenty dollars (\$820).

23 (k) The fee for evaluation of continuing education courses for  
24 accreditation shall be set by the board at an amount not to exceed  
25 forty dollars (\$40) per course hour.

26 (l) The fee for an intern pharmacist license shall be one hundred  
27 sixty-five dollars (\$165) and may be increased to two hundred  
28 thirty dollars (\$230). The fee for transfer of intern hours or  
29 verification of licensure to another state shall be twenty-five dollars  
30 (\$25) and may be increased to thirty dollars (\$30).

31 (m) The board may waive or refund the additional fee for the  
32 issuance of a license where the license is issued less than 45 days  
33 before the next regular renewal date.

34 (n) The fee for the reissuance of any license, or renewal thereof,  
35 that has been lost or destroyed or reissued due to a name change  
36 shall be thirty-five dollars (\$35) and may be increased to forty-five  
37 dollars (\$45).

38 (o) The fee for the reissuance of any license, or renewal thereof,  
39 that must be reissued because of a change in the information, shall

1 be one hundred dollars (\$100) and may be increased to one hundred  
2 thirty dollars (\$130).

3 (p) It is the intent of the Legislature that, in setting fees pursuant  
4 to this section, the board shall seek to maintain a reserve in the  
5 Pharmacy Board Contingent Fund equal to approximately one  
6 year's operating expenditures.

7 (q) The fee for any applicant for a nongovernmental clinic  
8 license shall be five hundred twenty dollars (\$520) for each license  
9 and may be increased to five hundred seventy dollars (\$570). The  
10 annual fee for renewal of the license shall be three hundred  
11 twenty-five dollars (\$325) for each license and may be increased  
12 to three hundred sixty dollars (\$360).

13 (r) The fee for the issuance of a pharmacy technician license  
14 shall be one hundred forty dollars (\$140) and may be increased to  
15 one hundred ninety-five dollars (\$195). The fee for renewal of a  
16 pharmacy technician license shall be one hundred forty dollars  
17 (\$140) and may be increased to one hundred ninety-five dollars  
18 (\$195).

19 (s) The fee for a veterinary food-animal drug retailer license  
20 shall be four hundred thirty-five dollars (\$435) and may be  
21 increased to six hundred ten dollars (\$610). The annual renewal  
22 fee for a veterinary food-animal drug retailer license shall be three  
23 hundred thirty dollars (\$330) and may be increased to four hundred  
24 sixty dollars (\$460).

25 (t) The fee for issuance of a retired license pursuant to Section  
26 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
27 forty-five dollars (\$45).

28 (u) The fee for issuance of a nongovernmental sterile  
29 compounding pharmacy license shall be one thousand six hundred  
30 forty-five dollars (\$1,645) and may be increased to two thousand  
31 three hundred five dollars (\$2,305). The fee for a temporary license  
32 shall be five hundred fifty dollars (\$550) and may be increased to  
33 seven hundred fifteen dollars (\$715). The annual renewal fee of  
34 the license shall be one thousand three hundred twenty-five dollars  
35 (\$1,325) and may be increased to one thousand eight hundred  
36 fifty-five dollars (\$1,855).

37 (v) The fee for the issuance of a nonresident sterile compounding  
38 pharmacy license shall be two thousand three hundred eighty  
39 dollars (\$2,380) and may be increased to three thousand three  
40 hundred thirty-five dollars (\$3,335). The annual renewal of the

1 license shall be two thousand two hundred seventy dollars (\$2,270)  
2 and may be increased to three thousand one hundred eighty dollars  
3 (\$3,180). In addition to paying that application fee, the nonresident  
4 sterile compounding pharmacy shall deposit, when submitting the  
5 application, a reasonable amount, as determined by the board,  
6 necessary to cover the board's estimated cost of performing the  
7 inspection required by Section 4127.2. If the required deposit is  
8 not submitted with the application, the application shall be deemed  
9 to be incomplete. If the actual cost of the inspection exceeds the  
10 amount deposited, the board shall provide to the applicant a written  
11 invoice for the remaining amount and shall not take action on the  
12 application until the full amount has been paid to the board. If the  
13 amount deposited exceeds the amount of actual and necessary  
14 costs incurred, the board shall remit the difference to the applicant.

15 (w) The fee for the issuance of an outsourcing facility license  
16 shall be two thousand two hundred seventy dollars (\$2,270) and  
17 may be increased to up to three thousand one hundred eighty  
18 dollars (\$3,180) by the board. The fee for the renewal of an  
19 outsourcing facility license shall be one thousand three hundred  
20 twenty-five dollars (\$1,325) and may be increased to up to one  
21 thousand eight hundred fifty-five dollars (\$1,855) by the board.  
22 The fee for a temporary outsourcing facility license shall be seven  
23 hundred fifteen dollars (\$715).

24 (x) The fee for the issuance of a nonresident outsourcing facility  
25 license shall be two thousand three hundred eighty dollars (\$2,380)  
26 and may be increased to up to three thousand three hundred  
27 thirty-five dollars (\$3,335) by the board. The fee for the renewal  
28 of a nonresident outsourcing facility license shall be two thousand  
29 two hundred seventy dollars (\$2,270) and may be increased to up  
30 to three thousand one hundred eighty dollars (\$3,180) by the board.  
31 In addition to paying that application fee, the nonresident  
32 outsourcing facility shall deposit, when submitting the application,  
33 a reasonable amount, as determined by the board, necessary to  
34 cover the board's estimated cost of performing the inspection  
35 required by Section 4129.2. If the required deposit is not submitted  
36 with the application, the application shall be deemed to be  
37 incomplete. If the actual cost of the inspection exceeds the amount  
38 deposited, the board shall provide to the applicant a written invoice  
39 for the remaining amount and shall not take action on the  
40 application until the full amount has been paid to the board. If the

1 amount deposited exceeds the amount of actual and necessary  
2 costs incurred, the board shall remit the difference to the applicant.

3 (y) The fee for the issuance of a centralized hospital packaging  
4 license shall be eight hundred twenty dollars (\$820) and may be  
5 increased to one thousand one hundred fifty dollars (\$1,150). The  
6 annual renewal of the license shall be eight hundred five dollars  
7 (\$805) and may be increased to one thousand one hundred  
8 twenty-five dollars (\$1,125).

9 (z) (1) *The application fee for a pharmacy benefits manager*  
10 *representative license shall be \_\_\_ dollars (\$\_\_\_) and may be*  
11 *decreased to no less than \_\_\_ dollars (\$\_\_\_).*

12 (2) *The application fee for a pharmacy benefit manager license*  
13 *shall be \_\_\_ dollars (\$\_\_\_) and may be decreased to no less than*  
14 *\_\_\_ dollars (\$\_\_\_).*

15 (3) *The licensure fee imposed under this subdivision shall not*  
16 *exceed the actual administrative costs in administering the*  
17 *provisions relating to the licensure and regulation of those*  
18 *licensees.*

19 ~~(z)~~

20 (aa) This section shall become operative on July 1, 2017.

21 SEC. 8. Article 25 (commencing with Section 4427) is added  
22 to Chapter 9 of Division 2 of the Business and Professions Code,  
23 to read:

24  
25 Article 25. Pharmacy Benefit Managers

26  
27 4427. (a) (1) A person or entity shall not act as pharmacy  
28 benefit manager for any dangerous drug or dangerous device unless  
29 he, she, or it has obtained a license from the board.

30 (2) (A) A pharmacy benefit manager shall disclose to the board  
31 the location, names, and titles of all of the following:

- 32 (i) Its agent for service of process in this state.
- 33 (ii) All pharmacists of the pharmacy benefit manager who are  
34 dispensing controlled substances, dangerous drugs, or dangerous  
35 devices to residents of this state.
- 36 (iii) The designated pharmacy benefits management  
37 representative by location.

38 (B) This information shall be made on an annual basis and  
39 within 30 days after any change of office, corporate officer, partner,  
40 or pharmacist.

1 (b) Upon approval by the board and the payment of the required  
2 fee, the board shall issue a license to the applicant.

3 (c) (1) Each place of business of a pharmacy benefit manager  
4 in California shall be supervised and managed by a designated  
5 pharmacy benefits management representative. The designated  
6 pharmacy benefits management representative shall be responsible  
7 for the pharmacy benefit manager's compliance with state and  
8 federal laws.

9 (2) As part of its initial application for a license, and for each  
10 renewal, each pharmacy benefit manager shall, on a form designed  
11 by the board, provide identifying information and the California  
12 license number for a designated pharmacy benefits management  
13 representative or pharmacist proposed to serve as the designated  
14 representative-in-charge.

15 (3) The board shall not issue or renew a pharmacy benefit  
16 manager license without identification of an approved designated  
17 pharmacy benefits management representative.

18 (4) The designated pharmacy benefits management  
19 representative shall maintain an active license as a designated  
20 pharmacy benefits management representative with the board at  
21 all times during which he or she is designated as the designated  
22 pharmacy benefits management representative.

23 (d) A pharmacy benefit manager shall notify the board in  
24 writing, on a form designed by the board, within 30 days of the  
25 date when a designated pharmacy benefits management  
26 representative ceases to act as the designated pharmacy benefits  
27 management representative, and shall on the same form propose  
28 another designated pharmacy benefits management representative  
29 or pharmacist to take over as the designated pharmacy benefits  
30 management representative.

31 (e) (1) The board may issue a temporary license, upon  
32 conditions and for periods of time as the board determines to be  
33 in the public interest. A temporary license fee shall be required in  
34 an amount established by the board as specified in subdivision (z)  
35 of Section 4400.

36 (2) When needed to protect public safety, a temporary license  
37 may be issued for a period not to exceed 180 days, subject to terms  
38 and conditions that the board deems necessary.

39 (3) If the board determines that a temporary license was issued  
40 by mistake or denies the application for a permanent license, the

1 temporary license shall terminate upon either personal service of  
2 the notice of termination upon the licenseholder or service by  
3 certified mail, return receipt requested, at the licenseholder's  
4 address of record with the board, whichever occurs first.

5 (4) Neither for purposes of retaining a temporary license, nor  
6 for purposes of any disciplinary or license denial proceeding before  
7 the board, shall the temporary licenseholder be deemed to have a  
8 vested property right or interest in the license.

9 4428. (a) A pharmacy benefit manager shall provide the  
10 information described in this section to the board, on an annual  
11 basis covering the contract year and in such form and manner as  
12 the board shall specify:

13 (1) For California residents whose prescription drug benefit is  
14 managed by the pharmacy benefit manager, the percentage of all  
15 oral prescriptions and self-administered drugs that were dispensed  
16 through pharmacies affiliated with the pharmacy benefit manager  
17 and the percentage of oral and self-administered drugs dispensed  
18 through retail pharmacies.

19 (2) The aggregate amount of discounts or price concessions  
20 (excluding bona fide service fees, which include, but are not limited  
21 to, distribution service fees, inventory management fees, product  
22 stocking allowances, and fees associated with administrative  
23 services agreements and patient care programs (such as medication  
24 compliance programs and patient education programs)) that the  
25 pharmacy benefit manager received from manufacturers of  
26 prescription drugs that were attributable to utilization by California  
27 residents whose prescription drug benefit was managed by a  
28 pharmacy benefit manager.

29 (3) The aggregate amount, and the type of rebates, discounts,  
30 or price concessions (excluding bona fide services, which include,  
31 but are not limited to, distribution service fees, inventory  
32 management fees, product stocking allowances, and fees associated  
33 with administrative service agreements and patient care programs  
34 (such as medication compliance programs and patient education  
35 programs)) provided to health care service plans, as defined in  
36 subdivision (f) of Section 1345 of the Health and Safety Code, and  
37 health insurers, as defined in subdivision (b) of Section 106 of the  
38 Insurance Code, and that are attributable to patient utilization under  
39 the plan, and the aggregate amount of the rebates, discounts, or

1 price concessions that are passed through to enrollees and the total  
2 number of prescriptions dispensed.

3 (b) The board shall make the information provided by pharmacy  
4 benefit managers in subdivision (a) available as part of its annual  
5 report.

6 4429. The board has the authority to enforce the provisions of  
7 this article, including the authority to adopt, amend, or repeal any  
8 rules and regulations, not inconsistent with the laws of this state,  
9 as may be necessary for the protection of the public and to  
10 implement this article.

11 SEC. 9. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.

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